

IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF OKLAHOMA

**FILED**

SEP - 9 2014

PATRICK KEANEY  
Clerk, U.S. District Court

By \_\_\_\_\_  
Deputy Clerk

FRED SMITH,

Petitioner,

v.

JANET DOWLING, Warden,

Respondent.

Case No. CIV 14-008-RAW-KEW

**OPINION AND ORDER**  
**DENYING MOTIONS FOR APPOINTMENT OF COUNSEL**

Petitioner has filed two motions requesting the court to appoint counsel, alleging he has limited legal knowledge and no access to the law library, and he is deteriorating physically and mentally. He bears the burden of convincing the court that his claim has sufficient merit to warrant appointment of counsel. *McCarthy v. Weinberg*, 753 F.2d 836, 838 (10th Cir. 1985) (citing *United States v. Masters*, 484 F.2d 1251, 1253 (10th Cir. 1973)).

The court has carefully reviewed the merits of petitioner's claim, the nature of factual issues raised in his allegations, and his ability to investigate crucial facts. *McCarthy*, 753 F.2d at 838 (citing *Maclin v. Freake*, 650 F.2d 885, 887-88 (7th Cir. 1981)). After considering petitioner's ability to present his claims and the complexity of the legal issues raised by the claims, the court finds that appointment of counsel is not warranted. See *Williams v. Meese*, 926 F.2d 994, 996 (10th Cir. 1991); See also *Rucks v. Boergermann*, 57 F.3d 978, 979 (10th Cir. 1995).

**ACCORDINGLY**, petitioner's motions (Docket Nos. 14 and 17) are DENIED.

**IT IS SO ORDERED** this 9<sup>th</sup> day of September 2014.

  
RONALD A. WHITE  
UNITED STATES DISTRICT JUDGE